

LEASE

OF THE

Vermont & Massachusetts Railroad

COMPANY,

TO THE

FITCHBURG RAILROAD COMPANY,

FOR

Nine Hundred and Ninety-Nine Years,

FROM JANUARY 1st, 1874.



FITCHBURG:

PRINTED AT THE REVEILLE STEAM PRINTING WORKS.

1874.

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LEASE.

This Indenture, made this first day of January in the year of our Lord one thousand eight hundred and seventy-four, by and between The Vermont and Massachusetts Railroad Company, a Corporation existing under and by virtue of the laws of the States of Massachusetts and Vermont, of the first part, and The Fitchburg Railroad Company, a Corporation existing under and by virtue of the laws of the State of Massachusetts, of the second part—*Witnesseth*—

That the said Vermont and Massachusetts Railroad Compa- ^{Property}
ny doth hereby lease, demise, and let unto the said Fitchburg ^{leased.}
Railroad Company, its successors and assigns, its Railroad extending from the terminus of the Fitchburg Railroad in Fitchburg to Brattleboro in the state of Vermont, and from “Grouts Corner” in Montague to Greenfield, together with its branch from Deerfield to Turners Falls—and also all the lands on which said Railroad is, or shall be located within said terminal points ; or which are connected with the uses of said Vermont and Massachusetts Railroad Company and are its property, and all the rights, easements, franchises, and privileges appurtenant thereto—and all the turn-outs, branch-tracks, depot grounds, water rights, stations, super-structures, and fixtures connected therewith, or belonging thereto, or used therewith, and the lands on which the same are now situate or standing, so far as the same are the property of the said Vermont and Massachusetts Railroad Company, and whether included within its location or not—and generally all and singular the real estate, tenements, franchises, and appurtenances of the party of the first part, and all its

Property
assigned
and made
over.

cars, engines, and equipments of every nature and description. Also all the personal property of the party of the first part, however the same may be described, or wherever situate,—saving and excepting only that all its open contracts for the transaction of its business, its notes, accounts, bills receivable, cash, cash funds, all its interest in the sinking fund, and claims of whatever nature and description, outstanding in its favor or arising or hereafter to arise under any contract or contracts, and belonging to the party of the first part, on the first day of January in the year of our Lord one thousand eight hundred and seventy-four, are on that day to be and become the full and absolute property of the said Fitchburg Railroad Company, and the same are hereby conveyed to said last named corporation in consideration of these presents—

Contracts
& encum-
brances
to which
leased
property
is subject.

Excepting however and always provided, the foregoing demise is made subject to a lease from the Vermont and Massachusetts Railroad Company to the Rutland Railroad Company of that part of its road extending from "Grouts Corner" to Brattleboro, and to all the covenants, stipulations, and provisions therein contained; and also subject to all the terms and conditions of a contract by and between said Vermont and Massachusetts Railroad Company and the Cheshire Railroad Company for the joint use by the said two Companies of so much of the road of the Vermont and Massachusetts Railroad Company as extends from Fitchburg to Ashburnham Junction, and for other privileges, to which lease and contract reference may be had; and also subject to all other existing incumbrances, liens, and contracts (although not specifically mentioned) entered into, made, or suffered by the Vermont and Massachusetts Railroad Company. And the Fitchburg Railroad Company shall be entitled to receive the rent reserved under said lease and contract, now or hereafter to become due, and to the full benefit of all the covenants of the lessees in said lease and contract; and the Vermont and Massachusetts Railroad Company will execute all instruments which shall be reasonably necessary for that purpose.

To have and to hold the same to the said Fitchburg Rail-^{Term.}
road Company, its successors and assigns for the the term of
nine hundred and ninety-nine years from and after the first
day of January in the year of our Lord one thousand eight
hundred and seventy-four.

And the said Vermont and Massachusetts Railroad Com-^{Covenant}
pany doth hereby covenant and agree with the said Fitchburg^{to confirm}
Railroad Company, that it will, at all times, upon reasonable^{and effectuate.}
request, execute any and all instruments that may be requisite
or necessary to confirm, and to its full meaning and intent
effectuate and establish the foregoing lease and assignment.

And the said Vermont and Massachusetts Railroad Compa-^{Covenant}
ny doth further covenant and agree, that it will upon the writ-^{to sell real}
ten request of the Fitchburg Railroad Company, sell and con-^{estate.}
vey to such person or persons as the said Fitchburg Railroad
Company may appoint, such portions or parcels of the real estate
held in fee by the Vermont and Massachusetts Railroad Com-
pany, and outside of its location, as the said Fitchburg Railroad
Company may designate, and upon such reasonable terms as
the said Fitchburg Railroad Company may direct; but upon the
express agreement however, by the Fitchburg Railroad Com-
pany that all the proceeds thereof, or a sum equal thereto,
shall be, or shall previously, from the funds of the Fitchburg
Railroad Company, have been, applied to permanent and sub-
stantial improvements, upon or connected with the road or
real estate of the Vermont and Massachusetts Railroad Com-
pany, and such as are not in the nature merely of renewals or
repairs.

And the said Vermont and Massachusetts Railroad Compa-^{Covenant to}
ny doth further agree, that, during the continuance of this lease^{maintain or-}
and agreement, it will maintain its organization and existence^{ganization.}
as a body corporate, and to that end will comply with all
the forms and requisites of the law; and that it will do and
perform all such acts, at the request of the party of the second
part, lawful and consistent with the rights of the party
of the first part, and its public duty, as shall be proper and

necessary to the due preservation and protection of all the property, rights, franchises and interests herein demised or granted to the party of the second part, and to the improvement of its property and increase of the facilities of its business, to carry into effect the true intent and meaning of this agreement, and that in default thereof the same may be done by the party of the second part, so far as it can lawfully do the same, or by its agents, successors, and assigns, in the name

That Lessee
may use the
name of the
Lessor.

and as the act of the party of the first part; and also that the party of the second part may use the name, franchise, and corporate power of the party of the first part in commencing and prosecuting any suit in law or equity, which may be necessary to enable the party of the second part to assert or maintain any right secured to it by this instrument, or to enforce payment of damages for injury thereto; and also that the party of the first part will not engage in any new enterprise, construct any new road, issue any additional stock, or incur any new debt or liability except in the issue of bonds or stock as herein provided for the purposes herein expressed, so long as this lease is valid and binding, except at the written request of the Fitchburg Railroad Company; and will not in any way interfere or act in the use or management of its road or its appurtenances, except it shall be authorized to do so by re-entry in case of default of the party of the second part as hereinafter provided.

That Lessor
will not en-
gage in any
new enter-
prise.

That Lessor
will do all
Corporate
Acts for im-
proving &
straighten-
ing road.

And the said Vermont and Massachusetts Railroad Company doth agree to do all lawful corporate acts, upon the request of the said Fitchburg Railroad Company, that may be necessary for the improvement or straightening of said Railroad, its stations, or grounds; provided, always, that all the expenses incurred by the said party of the first part, under this, or the preceding clause shall be borne by the party of the second part.

Covenant
for the issue
of addition-
al bonds.

And whereas it is probable that large expenditures may be necessary upon the line of the Vermont and Massachusetts Railroad to accommodate traffic, the said Vermont and Massachusetts Railroad Company doth further covenant and agree

that it will, at the written request of the Fitchburg Railroad Company, from time to time issue its additional unconvertible bonds, at a rate of interest either of six or seven per cent. at the option of the Fitchburg Railroad Company, to the extent of its right under its charter and legislative acts in that behalf, and any further legislative acts which may be hereafter passed; provided however said issue of additional bonds shall never exceed one million, five hundred thousand dollars, (except renewals of its bonds as hereinafter provided) to be delivered to and sold by said Fitchburg Railroad Company, but at not less than par, and upon the express agreement by the Fitchburg Railroad Company, that it will pay the principal and interest thereof as they may become due, and save the Vermont and Massachusetts Railroad Company harmless therefrom, and will, in the event that it places a mortgage or other lien upon its road, or upon its interest in the Vermont and Massachusetts Road, include and secure in said mortgage all said bonds outstanding and unpaid, and all bonds issued in renewal of the same as hereinafter provided—and upon the further agreement, that all the proceeds of said bonds, or a sum equal thereto, shall be or shall have previously, from the funds of the Fitchburg Railroad Company, been applied to the purchase of real estate for railroad purposes upon or immediately connected with the road of the Vermont and Massachusetts Railroad Company, and in its name, but for the occupation of the Fitchburg Railroad Company as lessee, or to permanent and substantial improvements, and such as are not in the nature of renewals or repairs, upon or connected with the road, road bed, bridges, track or real estate of the said Vermont and Massachusetts Railroad Company, or for the straightening or alteration of the line of the road of the Vermont and Massachusetts Railroad Company, or laying other tracks, or for excess in cost of steel over iron rails, or for any or all said purposes, but for no other purpose whatever.

Covenant
for the issue
of additional
bonds.

Covenant
to sell
Brattleboro
Branch.

Proviso for
disposition
of the pro-
ceeds.

And the Vermont and Massachusetts Railroad Company doth further covenant and agree with the Fitchburg Railroad Company, that it will, upon the written request of the Fitchburg Railroad Company, sell and convey to such person or persons or corporation as may be designated in such request (provided such sale can lawfully be made) that portion of the Vermont and Massachusetts Railroad, which lies between "Grout's Corner" and Brattleboro, Vermont, and known as the Brattleboro Branch, with all, or any part, of the real estate reasonably appertaining to that portion of the road, upon such reasonable terms as said Fitchburg Railroad Company may direct; and in case of a dispute between the parties to this lease as to the reasonableness of the said terms, the same shall be determined by referees chosen, one by each of said parties, and the third by the two so chosen; and if either party shall refuse to choose a referee, an umpire shall be appointed by the Supreme Judicial Court; and the said Fitchburg Railroad Company shall receive the proceeds of said sale; but upon the express agreement however, that all the proceeds of said sale, or a sum equal thereto, shall be, or shall have previously from the funds of the Fitchburg Railroad Company been, applied to the purchase of real estate for railroad purposes upon or immediately connected with the road of the Vermont and Massachusetts Railroad Company and in its name, but for the occupancy of the Fitchburg Railroad Company as lessee, or to permanent and substantial improvements and such as are not in the nature of renewals or repairs, upon or connected with the road, road-bed, track, bridges, or real estate of the said Vermont and Massachusetts Railroad Company, or for the straightening or alteration of the line of the road of the Vermont and Massachusetts Railroad Company, or laying other tracks, or for the excess of cost of steel over iron rails, or for any, or all said purposes but for no other purpose whatever—Provided however, and it is expressly agreed, that if at the time of said sale, the one million and a half of bonds of the Vermont and Massachusetts Railroad

Company—being the amount hereinbefore agreed upon—shall have been issued, and are outstanding, the whole proceeds of said sale shall be applied to the purchase and extinction of said bonds, or to a sinking fund to be kept expressly for that purpose; and if at the time of said sale no part of said issue of one million and a half of bonds shall have been made—or if a part of said bonds have been issued, but the said issue with the proceeds of said sale do not amount to one million and a half dollars—the Vermont and Massachusetts Railroad Company shall not be required to issue said bonds to any greater amount, than the difference between the actual proceeds of said sale added to the bonds already issued, and the sum of one million and a half of dollars; and in case a part only of said bonds shall have been issued before the sale of said Branch, and the part so issued together with the proceeds of said sale exceeds the sum of one million and a half dollars, so much of the proceeds of said sale shall be applied to the payment of said bonds (or carried to a sinking fund) as will reduce the sum of said bonds and proceeds to one million and a half dollars, the investment in a sinking fund being regarded for the purposes of this clause, as payment and extinction, *pro tanto*, of said bonds.

And the Vermont and Massachusetts Railroad Company doth further covenant and agree, that as its now existing bonds and all other bonds hereinbefore provided for mature, it will, on request of the Fitchburg Railroad Company, duly issue new bonds to the extent of eighty per centum of those so maturing, at a rate of interest of six or seven per centum at the option of the Fitchburg Railroad Company, to be sold at not less than par, and the proceeds to be applied to the payment to that extent of the bonds so maturing. And the said new bonds, if required, shall be delivered, at least six months before the maturity of the existing bonds, to a committee consisting of an equal number from the board of Directors of each of said Companies, to be by them sold and the proceeds strictly applied to the payment of the maturing bonds. And

Covenant
to issue
bonds in
renewal.

the existing bonds shall be delivered up, when paid, to the Treasurer of the Vermont and Massachusetts Railroad Company, cancelled. And upon the maturity of all the bonds so issued in renewal by the Vermont and Massachusetts Railroad Company as provided in this agreement, the Vermont and Massachusetts Railroad Company shall, upon request of the Fitchburg Railroad Company, issue new bonds to the extent of seventy-five per centum of the whole amount so maturing, of like tenor, and in such due season, as to enable the Fitchburg Railroad Company to liquidate and pay seventy-five per centum thereof. And when again such new bonds mature, the Vermont and Massachusetts Railroad Company will again issue bonds of like tenor to the amount of two-thirds of the amount so maturing. And when said last named bonds mature, will again issue new bonds of a like tenor to the amount of one-half of the bonds so maturing; it being always understood and agreed, that the difference in each case, which is twenty per centum of the original issue, shall be paid from the funds of the Fitchburg Railroad Company. The time during which said bonds shall run in each case of issue shall not exceed twenty years.

Covenant
to apply to
the Legisla-
tures for
necessary
authority.

And the said Vermont and Massachusetts Railroad Company hereby covenants and agrees with the Fitchburg Railroad Company that it will, at all times, upon the written request of the Fitchburg Railroad Company, make application to the Legislatures of Massachusetts or Vermont for all such acts and authority as may be necessary in the premises, and do all things which may be necessary or proper to enable the Fitchburg Railroad Company to procure the money necessary for the purposes aforementioned, in the manner above mentioned. But all acts of the Vermont and Massachusetts Railroad Company under this clause shall be at the cost and expense of the Fitchburg Railroad Company.

Covenant
for rent.

And in consideration of the foregoing the said Fitchburg Railroad Company doth hereby covenant and agree to pay to the said Vermont and Massachusetts Railroad Company as

annual rent, for the first two years, a sum each year equal to four per centum per annum on the present amount of the capital stock of the said Vermont and Massachusetts Railroad Company, two million, eight hundred and sixty thousand dollars; for the third and fourth years a sum each year equal to five per centum per annum upon said capital stock; and for each year of the remainder of said term of nine hundred and ninety-nine years, a sum equal to six per centum per annum, upon said capital stock. And the said rent is payable semi-annually on the first days of April and October of each year of said term, in good and lawful money of the United States, and is to commence on the first day of January, A. D. 1874, and is payable at the office of the Treasurer of the Vermont and Massachusetts Railroad Company. The rent on the first day of April, A. D., 1874, is to be for three months and not for six months.

And the said Fitchburg Railroad Company doth further covenant and agree to pay the interest on the bonds of the Vermont and Massachusetts Railroad Company as it may accrue, and the principal thereof when due, and also all the installments of the sinking fund, and in the event that any of the convertible bonds of the said Vermont and Massachusetts Railroad Company shall be converted into stock, the said Fitchburg Railroad Company doth agree to pay, as additional rental, the same annual per centum on said new stock as is hereinbefore set forth and provided as to the other stock, and at the same place and time.

And the said Fitchburg Railroad Company agrees to pay to the Vermont and Massachusetts Railroad Company the sum of three thousand dollars annually, for the purpose of defraying the expenses of the maintenance of its organization and the salaries of its officers; said amount to be paid in equal quarterly payments.

And the said Fitchburg Railroad Company, further agrees to pay all taxes, whether national, state, county or municipal, which shall be assessed upon said Vermont and

Covenant
to pay in-
terest, and
instalments
of sinking
fund.

Lessee to
pay \$3,000
annually.

Covenant
to pay
taxes.

Massachusetts Railroad Company, or upon its railroad, or any of its property, or which shall be required to be paid by said Vermont and Massachusetts Railroad Company for any year or part of year during said term; and if at any time during said term a tax shall be assessed upon the stock of the party of the first part, as a tax on property of stockholders, and as a substitute for the tax or any part thereof now levied upon the corporation, the party of the second part hereby agrees to pay the same, as also all charges and assessments in the nature of taxes, so that the party of the first part shall receive the clear annual revenue hereinbefore stated and fully set forth.

Covenant
to expend
money de-
rived from
sales of
land.

And the said Fitchburg Railroad Company further agrees to expend all sums of money received from sales of land, or an amount equal thereto as hereinbefore fully set forth, in permanent improvements upon, or connected with, the road or real estate of the Vermont and Massachusetts Railroad Company and such as are not in the nature merely of renewals or repairs.

Covenant
to indemni-
fy, and save
Lessor
harmless.

And the party of the second part doth further agree to assume all the debts, claims, liabilities, and obligations of every nature and description, now incurred and outstanding against the said Vermont and Massachusetts Railroad Company, or that may in any way hereafter arise or grow out of any transactions, business, negligence, or misfeasance had or committed by said Vermont and Massachusetts Railroad Company prior to the first day of January in the year of our Lord one thousand eight hundred and seventy-four, and to forever indemnify and wholly save harmless the said Vermont and Massachusetts Railroad Company therefrom. And the said party of the second part further agrees fully to indemnify, and save harmless, the party of the first part from and against all claims, obligations, losses, liabilities, or expenses, that it may in any wise incur, or become liable to, after said first day of January, that may in any manner arise, or grow out of, any transactions, business, negligence, or misfeasance in any way connected with the operation, management, or control of said leased road, or any of its property.

And whereas the said party of the first part has con-
 tracts for business and other matters still unexecuted and
 open, the party of the second part doth hereby agree to as-
 sume and perform all such contracts and agreements, and to
 do, and to keep, all things therein to be kept and performed,
 and save the party of the first part harmless therefrom. And
 it is to have and receive all payments and benefits to be had
 and received by the party of the first part under and by virtue
 of the same.

Said party of the second part further agrees that it will
 at all times keep, rebuild, and maintain said Railroad, its
 road-bed, bridges, superstructures, buildings, grounds, and
 fences, and every thing pertaining to the same, in as good re-
 pair and condition as it now is, and as the law may require.
 But nothing herein contained shall prevent the lessee from
 altering, taking down, or removing any structures on the
 premises; but in such case, and in place thereof, it shall on
 some part of the leased premises make other improvements or
 erect other structures, equal in value to the structures altered,
 taken down, or removed. And the said Fitchburg Railroad
 Company shall have the right to use all the rolling stock of
 the Vermont and Massachusetts Railroad Company on and
 over its own road, or over any road where it can lawfully
 send its own cars; and may, at any and all times, sell the
 locomotives, tools, machinery, fixtures, other rolling stock,
 furniture, and other personal property herein leased, substi-
 tuting other property of equal value therefor.

And the said party of the second part covenants and
 agrees that in managing and operating said leased road it
 will, as far as it lawfully may, assume and perform all obli-
 gations and duties to which it would be liable under the laws
 and the Charter of the Vermont and Massachusetts Railroad
 Company, in case the said Railroad was owned by said party
 of the second part, and make all returns that are or may
 be required by law of the Vermont and Massachusetts Rail-
 road Company.

Passes to
be issued.

And the party of the second part further agrees to furnish, during the term of this lease, to the officers for the time being of the Vermont and Massachusetts Railroad Company, not exceeding nine in number, free annual passes over the Fitchburg, and Vermont and Massachusetts Railroads, on regular passenger trains; the said officers taking the risk of all personal damage, detention, injury, or loss of baggage, from any cause whatsoever on said passage. And it also agrees that the stockholders of the Vermont and Massachusetts Railroad may pass free over said roads at any stockholders meeting during said term.

Forfeiture
clause.

These presents are upon the condition, that if the said Fitchburg Railroad Company shall neglect or refuse to pay the rent herein reserved, or any part thereof, for more than six months after the same shall have become due—previous written notice of at least thirty days having been given by the President and Directors of the Vermont and Massachusetts Railroad Company that this neglect or refusal will be considered as a forfeiture of this lease—or if the said Fitchburg Railroad Company shall continue to neglect, or fail to perform, any or either of the covenants on its part to be performed, for more than six months after written notice from the President and Directors of the Vermont and Massachusetts Railroad Company of such neglect or failure, and that if continued it will be regarded as a forfeiture of this lease—then and in either of said cases, the said party of the first part may lawfully, at any time after the expiration of said six months and while such neglect or default continues, without further notice or demand, enter into and upon the leased premises, or any part thereof in the name of the whole, and repossess the same as of its former estate, and expel the party of the second part and those claiming under it, without prejudice to any remedies which might otherwise be used for arrears of rent or preceding breach of covenant.

Interest
to be paid
for rent in
arrear.

And whenever payment of rent as hereinbefore provided shall be delayed, interest shall be paid by the party of the second part to the party of the first part, from the time when

such rent shall become due, at the rate of ten per centum per annum, up to the time that notice shall be given that such delay will be regarded as a forfeiture. But nothing herein shall be considered to work a forfeiture of this lease when the omission or delay on the part of the Fitchburg Railroad Company in performing any obligations hereunder—saving only the payment of the rent—results from causes reasonably beyond its control, or when, from any cause, such omission or delay ought not in equity to work a forfeiture; and nothing shall prevent the right of the Fitchburg Railroad Company to delay the payment of any claim or demand against the Vermont and Massachusetts Railroad Company which, for reasonable cause, it may choose to litigate at its own cost.

And the Fitchburg Railroad Company doth further agree, ^{Covenant to render equivalent.} that in the event of the forfeiture of this lease for breach of the condition thereof, and entry and repossession by the lessor, it will pay over, or render a sufficient equivalent for, the appraised value of the personal property herein assigned and made over, (upon the basis of an inventory thereof, made at the time of the execution hereof,) and for the locomotives, tools, machinery, fixtures, rolling stock, furniture, supplies, and other property which it shall have sold under the authority hereinbefore contained.

And the Fitchburg Railroad Company doth further ^{Covenant to pay bonds.} agree, that whenever, in pursuance of the terms of this agreement, the Vermont and Massachusetts Railroad Company shall issue its bonds as herein provided for, the Fitchburg Railroad Company will pay the principal and interest thereof as they may become due, and save the Vermont and Massachusetts Railroad Company harmless therefrom; and will ^{To secure by mortgage.} also, in the event that it places a mortgage or other lien upon its road, or upon its interest in the Vermont and Massachusetts Road, include and secure in said mortgage all said bonds outstanding and unpaid, and all issued in renewal of them or any part of them; and it doth further agree, that all the proceeds of said bonds, or a sum equal thereto, shall be

To purchase
real estate
or expend
in improve-
ments.

or shall previously from the funds of the Fitchburg Railroad Company have been, applied to the purchase of real estate for railroad purposes, upon or immediately connected with the road of the Vermont and Massachusetts Railroad Company and in its name, but for the occupation of the Fitchburg Railroad Company as lessee, or shall be applied to permanent and substantial improvements, and such as are not in the nature of renewals or repairs, upon or connected with the road, road-bed, bridges, track, or real estate of the said Vermont and Massachusetts Railroad Company, or to the straightening or alteration of the line of the road of the Vermont and Massachusetts Railroad Company, or to laying other tracks, or to the excess in the cost of steel over iron rails, or to any and all said purposes, but to no other purpose whatever.

Covenant
to apply
proceeds of
sale of real
estate.

And the Fitchburg Railroad Company doth further agree, that whenever the Vermont and Massachusetts Railroad Company shall sell any portion of its real estate as hereinbefore provided for, the proceeds thereof, or a sum equal thereto, shall be, or shall previously from the funds of the Fitchburg Railroad Company have been, applied to the purchase of real estate, for railroad purposes, upon or immediately connected with the road of the Vermont and Massachusetts Railroad Company and in its name, but for the occupancy of the Fitchburg Railroad Company as lessee; or shall be applied to permanent and substantial improvements, and not such as are in the nature of renewals or repairs, upon or connected with the road, road-bed, track, bridges, or real estate of the said Vermont and Massachusetts Railroad Company, or to the straightening or alteration of the line of the road of the Vermont and Massachusetts Railroad Company, or to laying other tracks, or to any and all said purposes, but to no other purpose whatever.

Limitation
of bonds
and sales to
one and a
half million
of dollars.

Provided however, and the Fitchburg Railroad Company doth further agree that if at the time of the sale of the Brattleboro Branch as hereinbefore provided for, the one million and a half of bonds of the Vermont and Massachusetts

Railroad Company—being the amount hereinbefore agreed upon—shall have been issued and are outstanding, the whole proceeds of said sale, or sales, shall be applied to the purchase and extinction of said bonds, or to a sinking fund to be kept expressly for that purpose.

And the said Fitchburg Railroad Company doth further agree, that in case a part only of said bonds shall have been issued before the sale of said branch, and the part so issued together with the proceeds of said sale exceeds the sum of one million and a half of dollars, so much of the said proceeds of said sale shall be applied to the payment of said bonds (or carried to a sinking fund) as will reduce the sum of said bonds and proceeds to one million and a half of dollars, the investment in a sinking fund being regarded for the purpose of this clause, as payment and extinction, *pro tanto*, of said bonds.

And the Fitchburg Railroad Company agrees, at all times upon the request of the Directors of the Vermont and Massachusetts Railroad Company, to furnish the said Directors with a full and detailed account of all expenditures, by said Fitchburg Railroad Company, of the money received from all its sales of the lands of the Vermont and Massachusetts Railroad Company, its sale of said Brattleboro Branch if made, and from the sale of any bonds issued or renewed under the provision of this lease.

It is further agreed and understood between the parties hereto, that the Fitchburg Railroad Company may relocate or rebuild any part of the line of the Vermont and Massachusetts Railroad, and for the purpose of straightening the same, or improving the grades or curvatures, may discontinue any portion, so far as it can lawfully be done, and may construct a second track in whole or in part, sidings, stations, and, in general, may make any reasonable and proper alterations, additions or improvements on said property, which the said Vermont and Massachusetts Railroad would, if acting in its own corporate capacity, have power to do. All however is to be paid for by the Fitchburg Railroad Company either out of its own funds, or out of the funds to be raised from bonds or otherwise as herein provided.

Covenant
to account.

Lessee may
relocate or
rebuild.

Inventory
and app-
raisals.

In addition to the inventory of the personal property assigned and made over as above provided, there shall be another inventory and appraisal made at, or immediately after, the execution of this lease, of all the locomotives, cars, rolling stock, machinery, and personal property of every nature and description demised to the Fitchburg Railroad Company by this lease, and an accurate description and appraisal made of the road, tracks, buildings, bridges, and all similar property appertaining to and of the nature of real estate, of the Vermont and Massachusetts Railroad Company; and a copy of such inventory, description, and appraisals shall be furnished to each of said Companies; and the same shall be evidence in any and all cases in which the question of the value of said property at the time of making this lease shall arise. The said inventory, description, and appraisals, as also the other inventory and appraisal provided for in this lease, shall be made by two disinterested persons, one selected by each of said Companies, who in case of any dispute or disagreement may choose a third.

Lease de-
termining
without de-
fault,
parties to
be restored
to former
condition.

And if at any time it shall happen that this lease shall be or become invalid, or shall be terminated without the default of either party, then, and in such case, each party shall be restored as near as may be to the condition in which it stood before the lease was made, and due allowance shall be made for what each party has paid, received, or become liable for in consequence of this lease, or in carrying out its provisions, so as to make an equitable adjustment between them, (but in no case shall any rent be returned, it being understood that the rent and the value of the occupation shall be considered as mutually equivalent) and if the parties cannot agree upon such adjustment, or upon an arbitration, then the party aggrieved shall have a claim to relief at law or in equity.

Covenants
binding on
assigns.

All the covenants by either corporation shall be binding upon its successors and assigns, and all the covenants to or with either corporation shall enure to the benefits of its successors and assigns in the same manner as if in each case it had been fully expressed.

In Witness Whereof, the Vermont & Massachusetts Rail Road Company by its President, and the Fitchburg Rail Road Company by its President, the President of each of said Companies being thereto duly authorized as a committee, have to this, and one other instrument of even date and tenor herewith, signed their corporate names, and affixed their corporate seals, the year and day first above mentioned.

Witness to Daniel S. Richardson, President,
and William B. Stearns, President, and
Franklin N. Poor, Treasurer, and M. D.
Benson, Treasurer.

FRANCIS B. SNOW.

Vermont and Massachusetts Rail Road Company, by Daniel S. Richardson, President, hereto authorized as a Committee by the Directors.

{ L. S. }

Fitchburg Rail Road Company, by William B. Stearns, President, hereto authorized as a Committee by the Directors.

{ L. S. }

Countersigned by

Franklin N. Poor, Treasurer Vermont & Massachusetts Railroad Company.

Countersigned by

M. D. Benson, Treasurer Fitchburg Rail Road Company.

COMMONWEALTH OF MASSACHUSETTS.

SUFFOLK, ss., January 7th, 1874.

Then personally appeared William B. Stearns, and as President of the Fitchburg Railroad Company, and as a committee duly authorized thereto, acknowledged the above to be the free act and deed of the Fitchburg Railroad Company.

Before me

P. E. TESCHEMACHER, *Justice of the Peace.*

COMMONWEALTH OF MASSACHUSETTS.

SUFFOLK, SS., January 7th, 1874.

Then personally appeared Daniel S. Richardson, and as President of the Vermont and Massachusetts Railroad Company, and as a committee duly authorized thereto, acknowledged the above to be the free act and deed of the Vermont and Massachusetts Railroad Company.

Before me

P. E. TESCHEMACHER, *Justice of the Peace.*

This memorandum witnesses that the terms of the within lease, have, before its approval by the stockholders of the Companies therein named, been unanimously agreed upon by the Directors thereof, acting under votes of their respective boards, both in their official capacity and as representatives of their respective boards.

Witness to the signatures
of the Directors of the Ver-
mont & Mass. Railroad Co.
B. D. LOCKE.

Daniel S. Richardson,
Geo. F. Fay,
F. Goodhue,
Wendell T. Davis,
T. K. Ware,
Jas. A. Dupee,
Wm. H. Hill,

} *Directors of*
} *Vermont and Massachusetts*
} *Railroad Company.*

Witness to the signa-
tures of the Directors of
the Fitchburg R. R. Co.
THOMAS WHITEMORE.

Wm. B. Stearns,
Robert Codman,
Seth Bemis,
P. B. Brigham,
Alvah Crocker,

} *Directors of the*
} *Fitchburg Railroad*
} *Company.*

Extracts from the Directors' Records of the Fitchburg Railroad Company.

The following vote was passed at a meeting held December 18th, 1873:

"Voted: That it is expedient to call a Special Meeting of the stockholders of the Fitchburg Railroad Company, to be held at the Passenger Station on Causeway Street, Boston, on Wednesday, the 31st day of December 1873, at 11 o'clock A. M., to see if the stockholders will authorize the Directors to take a lease of the Vermont and Massachusetts Railroad and its branches, for nine hundred and ninety-nine years, and to act upon the terms thereof; and the Clerk is hereby directed to call the same."

The following vote was passed at a meeting held December 29th, 1873.

"The proposed lease of the Vermont and Massachusetts Railroad having been presented and read, on motion of Mr. Bemis, seconded by Mr. Crocker, it was voted that this board do agree to said lease and approve the same, subject to the approval of the stockholders."

Extract from the Stockholder's Records of the Fitchburg Railroad Company.

The following vote was passed at a Special Meeting of the stockholders of the Fitchburg Railroad Company, held Wednesday, the 31st day of December, 1873: "That whereas the Directors of the Vermont and Massachusetts Railroad Company, and the Directors of the Fitchburg Railroad Company, whose roads enter upon and connect with each other, have agreed that the first named Company, shall make a lease of its road to said last named Company, and that such lease shall be for the term of nine hundred and ninety-nine (999) years, from the first day of January A. D., one thousand eight hundred and seventy-four, and that in addition to the payment of certain taxes, assessments and other payments to be made, and liabilities to be assumed and fulfilled by the lessees under said lease, the rent of such road, to be paid half yearly by said lessees, shall be a certain per cent-

age upon the Capital Stock issued by the said Vermont and Massachusetts Railroad Company, viz: Four per cent. per year thereon for the first two years of said term, five per cent. a year thereon for the two next years of said term, and six per cent. a year thereon for the residue of said term. And whereas the said Directors have agreed upon all the terms of said lease, which are fully set forth in the draft of a lease, this day submitted to the stockholders of the Fitchburg Railroad Company."

"Now therefore, we, the stockholders of the Fitchburg Railroad Company, do sanction and confirm such agreement, and do hereby approve of the terms of said lease, and do approve, ratify and confirm such lease itself, and hereby authorize the Directors of the Fitchburg Railroad Company in its behalf, either by their committee or collectively, to execute the same, and to affix thereto the signature and corporate seal of the Fitchburg Railroad Company."

Extract from the Directors' Records of the Fitchburg Railroad Company.

The following vote was passed at a meeting held January 7, 1874:

"On motion of Mr. Codman it was voted: That the President of this Company be authorized as a Committee to execute and acknowledge the lease of the Vermont and Massachusetts Rail Road, approved by the Stockholders at their Special Meeting held December 31, 1873, and to affix the corporate seal thereto."

I hereby certify that the foregoing are true copies from the Records of the Fitchburg Railroad Company.

Attest :

THOMAS WHITTEMORE,
Clerk of the Fitchburg Railroad Company.

Extracts from the Directors' Records of the Vermont and Massachusetts Railroad Company.

The following vote was passed at a meeting, held December 19, 1873:

"Voted: That a Special Meeting of the Stockholders of the Vermont and Massachusetts Railroad Company be called, to be held at the Passenger Station of the Fitchburg Railroad Company, on Causeway street, in Boston, the sixth day of January next, at eleven o'clock A. M., to see if the Stockholders will authorize the Directors to lease the Vermont and Massachusetts Railroad and its branches, for nine hundred and ninety-nine years, and to act upon the terms thereof."

The following vote was passed at a meeting held January 6, 1874:

"The lease of the Vermont and Massachusetts Railroad to the Fitchburg Railroad Company, as agreed upon by the joint Boards of Directors, was submitted to the Board, and thereupon the following vote was unanimously passed, viz: Voted: That this Board agrees to said lease and approves the same subject to the approval of the Stockholders."

Extract from the Stockholders' Records of the Vermont and Massachusetts Railroad Company.

The following vote was passed at a Special Meeting, held January 6, 1874:

"*Whereas*, the Directors of the Vermont and Massachusetts Railroad Company, and the Directors of the Fitchburg Railroad Company, whose roads connect with each other, have agreed upon a lease by the first named Company, of its road to the last named Company, for the term of nine hundred and ninety-nine years, from the first day of January, in the year one thousand eight hundred and seventy-four, and upon all the terms thereof, a copy of which lease has this day been read and submitted to the stockholders of the Vermont and Massachusetts Railroad Company."

"Now therefore, we, the stockholders of the Vermont and Massachusetts Railroad Company, do sanction said lease, and do approve the terms thereof, and do hereby authorize the Directors of the Vermont and Massachusetts Railroad Company, in its behalf, either by their committee or collectively, to execute the same, and to affix thereto, the corporate seal of the Vermont and Massachusetts Railroad Company."

Extract from the Directors' Records of the Vermont and Massachusetts Railroad Company.

The following vote was passed at a Meeting held January 7th, 1874:

"Voted; That the President of this Company be authorized, as a committee, to execute and acknowledge the lease to the Fitchburg Railroad Company, approved by the stockholders, at their Special Meeting, held January 6th, 1874, and to affix the corporate seal thereto."

I hereby certify that the foregoing are true copies from the Records of the Vermont and Massachusetts Railroad Company.

Attest :

B. D. LOCKE,

Clerk of the Vermont and Massachusetts Railroad Company.

